

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIANE CIVITANO,

Plaintiff,

-against-

PAMROB, INC. and PAMELA HOCHSTIN,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 1/5/2022

No. 17-CV-1791 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge

Plaintiff filed the complaint in this action on March 10, 2017. (ECF No. 1.) On October 4, 2017, this Court issued an order directing Plaintiff to show cause in writing by November 5, 2021 why this action should not be dismissed without prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b). (ECF No. 3.)

On October 29, 2021, the Court received a fax response from Plaintiff's counsel to the order to show cause. Plaintiff's counsel noted that "although [he is] inclined to request discontinuance, until it is known how or why this case was created, counsel cannot adequately determine plaintiff's best interests." Furthermore, Plaintiff's counsel stated, "[a]lthough I am listed as filing this doc, it is not known how or why a pleading fragment was filed in this case" and noted that the complaint filed in this action was a fragment of the pleading filed in cases for which there have been stipulations of voluntary discontinuance.

On November 1, 2021, Defendants' counsel filed a letter and supporting exhibits with the Court. (ECF No. 5.) Notably, defense counsel asserted that the complaint filed in this action contain identical allegations as those in Case Nos. 17-cv-10056 and 17-cv-1633, which have been dismissed with prejudice. (*Id.* at 1.) Furthermore, as defense counsel points out, and as supported

by the Exhibits of the parties' communications, plaintiff's counsel indicated an intent to discontinue the instant action. (*Id.* at 2; ECF No. 5-1 at 7.)

Upon receipt of Defendants' submission, on December 6, 2021, this Court issued a memorandum endorsement directing Plaintiff's counsel to show cause in writing by December 14, 2021 as to why this action should not be dismissed without prejudice pursuant to Fed R. Civ. P. 41(b) for want of prosecution (the "Order"). (ECF No. 6.) Plaintiff's counsel has failed to respond to the Order.

As the Court warned in its Order, pursuant to Federal Rules of Civil Procedure Rule 41(b), the Court dismisses Plaintiff's action without prejudice.

The Clerk of the Court is respectfully directed to close the case.

Dated: January 5, 2022
White Plains, New York

SO ORDERED:

A handwritten signature in blue ink, appearing to read "Nelson S. Román", is written over a light blue rectangular background.

NELSON S. ROMÁN
United States District Judge